

Attachment 3: Public Participation Process For Aquifer Exemption Proposals

The purpose of this document is to explain the public participation process that the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Division) will follow before submitting an aquifer exemption proposal to the US Environmental Protection Agency (U.S. EPA). The Division will not submit an aquifer exemption proposal to U.S. EPA without concurrence from the State Water Board and the appropriate Regional Water Quality Control Board (collectively Water Boards) that the proposal is appropriate, and the Division will not submit a proposal for public comment unless the Division and the Water Boards agree that the proposal merits consideration.

- **Public Notice and Comment**

- Timing. Public notice and opportunity to comment will be provided after the Division and the Water Boards make an initial determination to request U.S. EPA approval of a new aquifer exemption, but before any final proposal is submitted to U.S. EPA.
- Newspaper Publication. The Division will publish notice of proposed aquifer exemptions in at least one newspaper. The most appropriate newspaper will be determined on a case-by-case basis, but generally will be the most widely-circulated, daily-issue newspaper in the county where the aquifer is located. Notice may be published in a second newspaper, if deemed necessary to target a wider audience or more local community. All notices will be published for three consecutive days, beginning (but not necessarily ending) on a weekday.
- Length of Notice and Comment Period. The Division will accept public comment for a period of at least 30 days beginning on the first day notice is published in the newspaper. If substantial changes are made to the proposed exemption after the close of the initial notice and comment period, the Division will reopen a supplemental, 15-day notice and comment period beginning on the first day the supplemental notice is published in the newspaper.
- Website. The Division will establish a webpage within its current website to hold all notices, information submitted in support of exemptions, public comments, and other materials on which the Division relies. The notices will direct readers to the webpage for more information, which will more fully inform the public and enable a meaningful opportunity to comment.
- List Serve. The webpage for aquifer exemptions will allow individuals to join a list serve for receiving email notification of all future aquifer

exemption proposals. Email notification will be sent on the same day notice is published in the newspaper, or as soon as possible thereafter.

- Outreach. On the same day notice is published in the newspaper, or as soon as possible thereafter, the Division will email or mail notice to the following:

- Director of the Water Management Division, U.S. EPA Region IX;
- Chairperson of the State Water Resources Control Board;
- Chairperson of the Regional Water Quality Control Board(s) with jurisdiction over the area in which the aquifer is located;
- The Board of Supervisors of the county(s) in which the aquifer is located, and any other local officials identified as likely to be interested;
- State Senators in the following committees: Agriculture; Energy, Utilities and Communications; Environmental Quality; Natural Resources and Water;
- State Assembly Members in the following committees: Agriculture; Natural Resources; Water, Parks & Wildlife; and
- Industry associations and non-governmental organizations identified as likely to be interested;

- **Public Comment Hearings**

- Schedule and Notice. A joint public comment hearing will be held with a designee from the State Water Board for the purpose of providing an opportunity for people to provide oral comments. The initial notices for a proposed aquifer exemption will specify the date of the hearing date, which will always be at least 30 days from the date of the notice.
- Location. Hearings will be held at a location convenient for the parties involved or in Sacramento.
- Consolidation. The Division and State Water Board will set aside one day every month (or every other month, depending on the rate of proposals under review) for holding a public hearing on proposed aquifer exemptions. Several aquifer exemption proposals will normally be considered at each hearing, with each proposal allocated a separate time slot. The number of exemption proposals at issue in a hearing will depend on readiness of the proposals and their relative complexity.
- Requests for U.S. EPA Participation. The Division and State Water Board may elect to request U.S. EPA's participation at the hearing. Requests for

U.S. EPA participation will be made at least 10 days prior to the date of the hearing.

- Conduct. Public hearings will be conducted as follows:
 - Division staff will provide a brief introduction regarding each aquifer exemption;
 - The purpose of the public comment hearings is to receive public input – the Division and State Water Board will receive public comments but will not necessarily answer questions or debate issues;
 - All attendees will be provided an opportunity to provide oral or written statements, though the Division and State Water Board may impose reasonable limitations on oral presentations;
 - Hearings will be recorded by an audio/video recording device, or by a stenographer; and
 - If an attendance list or similar document is posted or circulated at the hearing, the document will state that signing-in is voluntary and that all persons may attend regardless of whether they sign-in.

- **Outcome**

- Notice of Substantial Changes. As noted above, the Division will reopen a 15-day supplemental notice and comment period for substantial changes made to the proposed exemption following close of the initial comment period.
- Decision and Response to Comments. If the Division and the Water Boards elect to submit an aquifer exemption proposal to U.S. EPA, it will prepare a document that (1) announces the decision, (2) provides a concise statement of the basis for the decision, and (3) summarizes the substantive comments received (including oral comments received at a hearing) and the disposition of those comments. This document will be included in the submittal to U.S. EPA.
- Submission to U.S. EPA. In the unlikely event it takes the Division longer than one year from the date of initial notice to submit an aquifer exemption to U.S. EPA, the Division will consider whether there are any changed circumstances that may reasonably require a new round of notice and comment.